

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Jere E. Pierce)
Map 64, Control Map 64, Parcel 6) Dyer County
Map 71, Control Map 71, Parcels 24 & 25)
Map 113, Control Map 113, Parcel 5)
Farm Property)
Rollback Taxes for 2003, 2004 & 2005)

INITIAL DECISION AND ORDER SETTING ASIDE ROLLBACK TAXES

Statement of the Case

The subject property has been assessed rollback taxes for tax years 2003, 2004 and 2005 as follows:

<u>Parcel</u>	<u>Rollback Taxes (\$)</u>
64-64-6	2,088.00
71-71-24	264.00
71-71-25	2,886.00
113-113-5	4,830.00

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on May 23, 2007 in Dyersburg, Tennessee. In attendance at the hearing were Jere Eugene Pierce, the appellant, and Janie Gregson, Dyer County Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of four farms containing a total of 1,054.7 acres. The sole issue before the administrative judge concerns whether the rollback taxes at issue should be set aside.

Subject farms were previously owned by the appellant's parents, Howard and Maureen Pierce, and received preferential assessment under the greenbelt law. See Tenn. Code Ann. § 67-5-1001, et seq. Upon their death, the appellant inherited subject farms. At the time of his inheritance, the appellant already owned 1,500 acres of farmland in Dyer County which also received preferential assessment under the greenbelt law.

On June 13, 2006 the assessor of property assessed rollback taxes pursuant to Tenn. Code Ann. § 67-5-1008. The reason for the rollback taxes was that Tenn. Code Ann. § 67-5-1003(3) provides that “[n]o person may place more than one thousand five hundred (1,500) acres of land within any one (1) jurisdiction under [greenbelt].”

The administrative judge finds that Tenn. Code Ann. § 67-5-1008 was amended effective June 5, 2006 by adding subsection (h) which provides as follows:

Property passing to a lineal descendant of a deceased greenbelt owner, by reason of the death of the greenbelt owner, shall not

be subject to rollback solely because the total greenbelt acreage of the new owner exceeds the maximum under § 67-5-1003, or will exceed the maximum following the transfer. Property exceeding the limit in these circumstances shall be disqualified from greenbelt classification, but shall not be assessable for rollback unless other disqualifying circumstances occur before the property has been assessed at market value three (3) years.

As previously noted, the above-quoted amendment took effect June 5, 2006 and the rollback assessments were not levied until June 13, 2006. The administrative judge finds that the current situation falls squarely within Tenn. Code Ann. § 67-5-1008(h). Accordingly, the administrative judge finds that subject property is not subject to rollback taxes.

ORDER

It is therefore ORDERED that the rollback taxes levied for tax years 2003, 2004 and 2005 are hereby set aside.

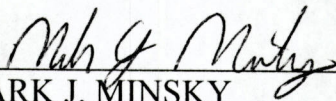
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 25th day of May, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jere Eugene Pierce
Janie Gregson, Assessor of Property